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7 **UNITED STATES DISTRICT COURT**
8 **ESTERN DISTRICT OF WASHINGTON**
9 **AT SPOKANE**

10 DONALD C. FALLER, Jr.

11 Plaintiff,

12 vs.

13 FLUOR CORPORATION, AND “DOES 1
14 THROUGH 10, INCLUSIVE,”

15 Defendants.

16 **NO. CV-11-359-RHW**

17 **PLAINTIFF’S COMPLAINT
FOR DAMAGES**

18 Plaintiff, Donald C. Faller, Jr., complains and alleges against Defendant Fluor
19 Corporation and Does 1 through 10, as follows:

20 **I. JURISDICTION**

21 1.1 This action involves claims for personal injury based on tort under the laws of
22 Washington State.

23 1.2 Defendant Fluor Corporation is believed to be a Texas corporation that transacts
24 business in Eastern Washington. The site of the conduct at issue was the jobsite of the
25 2007-REC (Renewable Energy Corporation) Moses Lake Expansion Project. Defendant
Fluor was the general contractor on the project.

1.3 Plaintiff Donald Faller was a resident of New York State at all time material to this
complaint. At the time of injury Mr. Faller was employed by Haskell Corporation, a
subcontractor on the building project.

1.4 Jurisdiction is vested in this court by virtue of diversity of citizenship under 28 U.S.C. §1332(a). The plaintiff and defendant are citizens of different states, and the amount in controversy exceeds \$75,000. The court has ancillary jurisdiction over plaintiff's state law claims pursuant to 28 U.S.C. §1367(a).

II. FACTS

2.1 Plaintiff Donald Faller, an employee of Haskell Corporation, was severely injured on December 6, 2008, while working as a pipefitter on the 2007-REC (Renewable Energy Corporation) Moses Lake Expansion Project. He was working on the top of a silo. There was no scaffolding or secure footing over the silo top, so he had to stand on the sloped silo roof itself. It was slippery, he fell, and hurt his shoulder when he caught himself to keep from falling off. Defendant Fluor was the general contractor on the project, and at all times was in control of the jobsite. Fluor had a nondelegable duty to keep the jobsite safe for all workers. Fluor and Does 1 through 10 failed to provide a safe working surface for plaintiff, failed to eliminate the hazard posed by the slick, sloped surface, failed to warn the plaintiff of the danger, failed to adopt and/or enforce an adequate site specific safety plan, and generally failed exercise reasonable care and failed to maintain a safe jobsite under the common law, statutes and regulations of the State of Washington.

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III. CAUSE OF ACTION

3.1 As a direct and proximate cause of the defendants' negligence, as alleged above, plaintiff Donald Faller has suffered severe personal injuries necessitating past and future medical treatment, in an amount to be proven at the time of trial.

3.2 As a direct and proximate cause of the defendants' negligence, as alleged above, plaintiff Donald Faller has undergone severe pain, suffering, disfigurement and mental anguish, and will continue to suffer pain and mental anguish and a permanent disability in the future, all to his general damage in an amount to be proven at the time of trial.

3.3 As a direct and proximate cause of the defendants' negligence, as alleged above, plaintiff Donald Faller has incurred loss of earnings and impairment of his earning capacity, all to his general damage in an amount to be proven at the time of trial.

IV. PRAYER FOR RELIEF

WHEREFORE, plaintiff prays for judgment against the defendants as follows:

1. For past and future medical special damages;
2. For loss of earnings and impairment of earning capacity;
3. For general damages;
4. Reasonable attorneys' fees and costs; and
5. Such further relief as may be appropriate.

DATED October 4, 2011.

SCOTT, KINNEY, FJELSTAD & MACK

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